

AN ACT

ENTITLED, An Act to provide for a Criminal Code Revision Commission and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. The Executive Board of the Legislative Research Council shall establish a Criminal Code Revision Commission during the 2004 legislative interim. The commission shall consist of fifteen members. Thirteen members shall be appointed by the Executive Board. Three shall be state senators, no more than two of whom shall be members of the same party. Six shall be state representatives, no more than four of whom shall be members of the same party. Two shall be distinguished current members of the State Bar of South Dakota with extensive experience as a state's attorney or criminal prosecutor. Two shall be distinguished current members of the State Bar of South Dakota with extensive experience as a public defender, court-appointed attorney for indigent defendants, or criminal defense attorney. No more than three of the nonlegislator members of the commission, who are appointed by the Executive Board, shall be from the same party. Before making the appointments of the nonlegislators, the Executive Board shall solicit the advice and recommendations of the State Bar of South Dakota, the South Dakota Trial Lawyers Association, the South Dakota States Attorney's Association, and other organizations that may wish to participate in the appointment process.

Section 2. Two members of the commission shall be appointed by the Chief Justice of the Supreme Court. Each shall be either a current or retired circuit court judge or a retired Supreme Court Justice. Each shall have extensive experience in criminal law.

Section 3. The Criminal Code Revision Commission shall carefully examine the crimes, the elements of crimes, and the punishment of crimes, with special reference to legislative revisions made since the conclusion of the work of the previous Criminal Code Revision Commission, to

ensure that the elements of each crime are clearly and precisely described, that each crime is necessary and appropriate to the maintenance of public order and a well regulated society, and that the punishment prescribed for each crime is just and proportionate. The scope of authority of the commission is not limited to Title 22, but specifically includes all drug offenses and driving under the influence offenses. Moreover, the commission may, at its discretion, examine any offense, whether inherently criminal, procedural, or administrative, if the offense is punishable as a felony or misdemeanor, or by the imposition of any fine or civil penalty.

Section 4. The Criminal Code Revision Commission shall embody its recommendations for amendment of the criminal code in draft legislation and submit its recommendations to the Executive Board no later than the Executive Board's final interim meeting.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

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I certify that the attached Act
originated in the

SENATE as Bill No. 1

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 1

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State